

CHAPTER 826

H.B. No. 2481

AN ACT

relating to the exclusion of, and removal and disposal of the property of, a commercial tenant by a landlord.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 91.002, Property Code, is amended to read as follows:

Sec. 91.002. **INTERRUPTION OF UTILITIES AND EXCLUSION OF TENANT.** (a) A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from bona fide repairs, construction, or an emergency.

(b) A landlord may not intentionally prevent a tenant from entering the leased premises except by judicial process unless the exclusion results from:

- (1) bona fide repairs, construction, or an emergency;
- (2) removing the contents of premises abandoned by a tenant; or
- (3) changing the door locks of a tenant who is delinquent in paying at least part of the rent.

(c) *A commercial tenant is presumed to have abandoned the premises if goods, equipment, or other property, in an amount substantial enough to indicate a probable intent to abandon the premises, is being or has been removed from the premises and the removal is not within the normal course of the tenant's business.*

(d) *A landlord may remove and store any property of a commercial tenant that remains on premises that are abandoned. In addition to the landlord's other rights, the landlord may dispose of the stored property if the tenant does not claim the property within 60 days after the date the property is stored. The landlord shall deliver by certified mail to the tenant at the tenant's last known address a notice*

*stating that the landlord may dispose of the tenant's property if the tenant does not claim the property within 60 days after the date the property is stored.*

(e) [(e)] If a landlord or a landlord's agent changes the door lock of a *residential* tenant who is delinquent in paying rent, the landlord or the landlord's agent must:

(1) place a written notice on the tenant's front door stating the name and *local address* [~~location~~] of the individual from whom the new key may be obtained at any hour; and

(2) provide the new key to the tenant at any hour, regardless of whether or not the tenant pays any of the delinquent rent.

(f) *If a landlord or a landlord's agent changes the door lock of a commercial tenant who is delinquent in paying rent, the landlord or agent must place a written notice on the tenant's front door stating the name and the address or telephone number of the individual or company from which the new key may be obtained. The new key is required to be provided only during the tenant's regular business hours.*

(g) [(d)] If a landlord or a landlord's agent violates this section, the tenant may:

(1) either recover possession of the premises or terminate the lease; and

(2) recover from the landlord an amount equal to the sum of his actual damages, one month's rent, and reasonable attorney's fees, less any delinquent rents or other sums for which the tenant is liable.

(h) [(e)] A provision of a *residential* lease that purports to waive a right or to exempt a party from a liability or duty under this section is void. *A commercial lease supersedes this section to the extent of any conflict.*

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 22, 1987, by a non-record vote. Passed by the Senate on May 29, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Aug. 30, 1987, 90 days after date of adjournment.